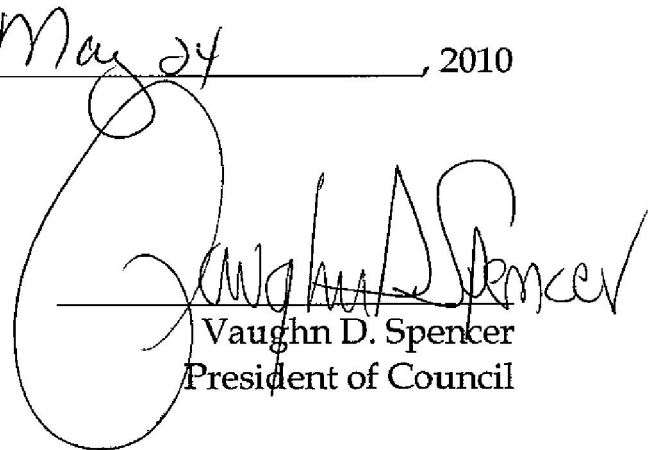


## RESOLUTION NO. 59-2010

THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS FOLLOWS:

Denying the Conditional Use application submitted by Rosanno DiFeaux, owner of 335 North 11<sup>th</sup> Street, for of two (2) additional rental units (request to expand to a total of three rental units) at 335 North 11th Street and ordering the deconversion of the third "efficiency" unit at the property leaving 335 N 11th Street with a total of two (2) permitted rental units, per the attached and incorporated hereto the Findings of Fact and Conclusion of Law

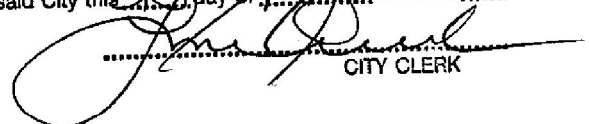
Adopted by Council May 24, 2010

  
Vaughn D. Spencer  
President of Council

Attest:

  
Linda A. Kelleher  
City Clerk

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Resolution passed by the Council of the City of Reading, on the 24 day of May A. D. 20 10. Witness my hand and seal of the said City this 25 day of May A. D. 20 10.

  
CITY CLERK

IN RE: APPLICATION OF ROSANNO DIFEAUX	: BEFORE THE CITY COUNCIL
FOR A CONDITIONAL USE PERMIT	: OF THE CITY OF READING,
RELATIVE TO THE PROPERTY	: READING, BERKS COUNTY,
LOCATED AT 335 NORTH 11 <sup>TH</sup> STREET	: PENNSYLVANIA
	:
	: CONDITIONAL USE
	: CONVERSION TO INCREASE
	: NUMBER OF UNITS

**DECISION OF THE CITY OF READING  
CITY COUNCIL ON A CONDITIONAL USE APPLICATION**

**AND NOW**, this 24th day of May, 2010, a hearing having been held on April 28, 2010, upon the application of Rosanno DiFeaux, notice of such hearing having been first sent, posted and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, the City of Reading City Council (hereinafter "Council") renders the following decision:

**FINDINGS OF FACT**

City Council finds the following facts:

1. The Applicant is Rosanno Moya-DiFeaux, "Applicant" with a registered address of 1137 North 13<sup>th</sup> Street, Reading, Berks County, Pennsylvania, 19604..
2. Applicant is the fee simple owner of the property of 335 North 11<sup>th</sup> Street at the time of application and at the time of the hearing.
3. The Subject Property is located in the R-3 Zoning District as that term and district is defined by the City of Reading Zoning Ordinance, as amended, (hereinafter referred to as "Zoning Ordinance").
4. Applicant is seeking a Conditional Use to undertake a conversion of the subject property for the addition of one (1) rental units, for a total of three (3) units, at the Subject Property per §27-1203.4 of the City of Reading Zoning Ordinance.

5. Applicant seeks the conversion to permit one (1) additional unit to the Subject Property which is currently permitted as a two unit rental dwelling.<sup>1</sup>

6. The Subject Property is a two story structure which contains three (3) apartment units.<sup>2</sup>

7. Applicant testified that three (3) units existed at the Subject Property when she purchased the property in April 2004.

8. Applicant testified that she did not check to see if proper zoning for a three (3) unit rental property existed before the Subject Property was purchased. Applicant did present evidence that it is insured as a three unit.

9. Applicant provided a hand drawn site plan. The site plan does not depict parking spaces conforming to the dimensional requirements of the Zoning Ordinance.

10. Applicant testified that there are only two (2) off-street parking spaces available to the occupants of the property. The Applicant was informed that the requirements for a conversion as a Conditional Use per the Zoning Ordinance are 1.5 off-street parking spaces per unit. Applicant testified that no additional off-street parking is available.

11. Applicant cannot meet the 1.5 off-street parking spaces per unit requirement for a conversion for a total of three (3) units.

12. Zoning Ordinance Section 27-1203 (4) B requires a one bedroom rental unit to have a minimum of 550 sq. ft<sup>3</sup>. The application and site plan submitted with the application shows one unit is 16' x 40', 640 sq ft, a second unit 512 sq ft, 16'x 32' and third unit is 16' x 30', 480 sq ft. Two of the units do not comply with section 27-1203(4) B of the Zoning Ordinance, as they fail to meet the 550 sq ft minimum for a one (1) bedroom apartment.

13. The Zoning Ordinance requires documents showing that all plumbing, heating and electrical equipment and facilities are adequate and appropriate for the proposed use.

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<sup>1</sup> There is a suggestion that this property was permitted through the City of Reading Housing – Rental Ordinance as a two unit rather than a three unit because the third unit was owner occupied and owner occupied units are exempt from payment under the City's Housing – Rental Ordinance. No evidence was submitted at any time that the third unit was historically owner occupied. A zoning permit was issued for a two unit dwelling at this subject property in light of the two unit rental history of this property per the City's expedited zoning process. City Zoning Administrator Jennifer Oehler testified that notwithstanding her request the applicant failed to present any documentation to her that one of the units was owner occupied.

<sup>2</sup> Applicant testified that one of the units was an efficiency, however, the drawings submitted show separate bedrooms for all three units. Thus, it is not designed as an efficiency.

<sup>3</sup> An efficiency is required to have a minimum of 400 sq ft.

14. Applicant presented no exhibit or documentation that all plumbing, heating and electrical equipment and facilities are adequate and appropriate for three (3) units in the Subject Property.

15. Pursuant to the Municipalities Planning Code and Reading Zoning Ordinance, the City of Reading Planning Commission has the opportunity to comment on an application for a Conditional Use.

16. The Planning Commission exercised this authority at its April 27, 2010 meeting whereat it voted to recommend denial of the Conditional Use as recorded in Resolution 22-2010 and presented by City Planner as authorized representative of the Commission at the Conditional Use hearing.

17. There was no testimony in opposition or in favor of the Conversion by neighbors.

## **DISCUSSION**

Applicant requests a Conditional Use to undertake the conversion of the Subject Property located in an R-3 Residential Zoning District to obtain an additional one permitted unit to make the property a permitted three (3) unit rental property. Applicant has not met the requisite criteria for off-street parking per the City of Reading Zoning Ordinance for a conversion to a three (3) unit rental as a Conditional Use in the R-3 Residential Zoning District. Two of the units do not meet the minimum square footage requirements for a one bedroom unit as defined in the Zoning Ordinance. Applicant failed to present evidence of plumbing, heating and electrical equipment and facilities are adequate and appropriate for three (3) units in the Subject Property.

## CONCLUSIONS OF LAW

1. The Subject Property is located in the R-3 Zoning District.
2. A hearing was held on April 28, 2010.
3. Applicant requests a Conditional Use for a conversion to add one (1) unit to this two unit permitted property, for a total of three (3) units.
4. The burden of proof on an application for a Conditional Use is upon the Applicant.
5. City of Reading City Council is permitted to grant Conditional Uses and other relief as set forth in the Zoning Ordinance of the City of Reading and Pennsylvania Municipalities Planning Code upon compliance with the requirements therefor set forth in the Zoning Ordinance.
6. The requirements for a conversion as a Conditional Use in an R-3 Zoning District are set forth in §27-1203.4 of the City of Reading Zoning Ordinance.
7. In order to grant the relief, Applicant must show that it has satisfied §27-1203.4 of the City of Reading Zoning Ordinance.
8. Applicant failed to meet the burden of proof to meet the requirements of conversion as a Conditional Use for a three (3) unit rental as set forth in §27-1203.4 of the City of Reading Zoning Ordinance. Specifically, Applicant failed to prove:
  - a. The floor area of two of the units do not meet the minimum square footage requirements for a one bedroom apartment as set forth in §27-1203.4.B
  - b. There are at least 1.5 off street parking spaces delegated to each rental unit requested at the Subject Property per §27-1203.4.C. and
  - c. That all plumbing, heating and electrical equipment and facilities are adequate and appropriate for three (3) rental units in the Subject Property.
9. Applicant did not file an application for a non-conforming use or other relief from the Zoning Hearing Board for the City of Reading.

## DECISION

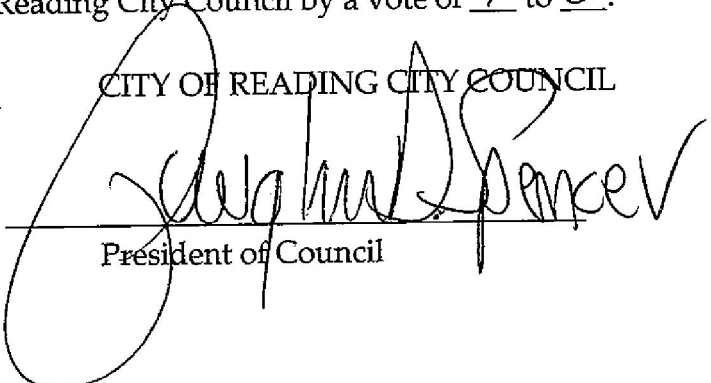
After reviewing the Applicant's request in detail and hearing testimony, City Council enters the following decision:

**Applicant is hereby denied a Conditional Use for a Conversion of the Subject Property to a three (3) unit rental** because Applicant failed to meet the requirements therefore pursuant to the City of Reading Zoning Ordinance. The de-conversion from three (3) unit to a two (2) unit must occur within three (3) months of the date of this order.<sup>4</sup> The de-conversion must comply with all City regulations and be approved by the Chief Building Inspector.

If the current or subsequent property owner fails to deconvert the property to a single unit within three (3) months, the zoning permit for a two unit rental shall be revoked.

This is the decision of the City of Reading City Council by a vote of 7 to 0.

CITY OF READING CITY COUNCIL



\_\_\_\_\_  
President of Council

Attest:



\_\_\_\_\_  
City Clerk

<sup>4</sup> Two units are permitted as they were previously permitted through the City of Reading Zoning Office.